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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,356	11/13/2001	Kenji Okada	8861-418US (P24477-02)	5884

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2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103-7013

EXAMINER

PSITOS, ARISTOTELIS M

ART UNIT	PAPER NUMBER
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2653

DATE MAILED: 09/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/009,356

Applicant(s)

OKADA, KENJI

Examiner

Aristotelis M Psitos

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2001.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 6,7,9-12,17-23 and 25 is/are allowed.
6) ☒ Claim(s) 1-5,13,27 and 28 is/are rejected.
7) ☒ Claim(s) 8,24,26 and 29-31 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/13/01.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

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DETAILED ACTION

Priority

Applicant's claim for foreign priority is acknowledged and granted. The PCT documents are associated with the file.

Information Disclosure Statement

The IDS of Nov. 13, 2001 is acknowledged and made of record.

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claims 14-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 14-16 are drawn to an apparatus as recited in claim 14, lines 1-6. The remaining lines of this claim are drawn to a wherein clause – condition. However, this clause is not written in a positive sense, i.e., "when" and as such adds no positive limitation(s). Furthermore, lines 10-14 are not clearly understood. As disclosed, the magnet keeps the appropriate elements attached thereto until the speed is of sufficient value and the resultant centrifugal force causes the displacement of these elements. However, as recited in these lines, it is not clear how the speeds can be both lower than a separation speed and simultaneously higher than an attraction? Further elaboration is respectfully requested. The dependent claims 15 and 16 fail to clarify the above and fall with the parent claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3,13,27 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Ikuta et al.

The following analysis is made.

Claim 1

Ikuta et al

Disk drive comprising:

see abstract – col. 1 lines 1-10.

A disk

see fig. 1, element 5

An optical pickup

inherently present,

Balancer :

see col. 1 line 12 to col. 2 line 3.

Wherein clause lines 9-13

With respect to the wherein clause, the examiner interprets such as a desired result that follows from the above identified elements when the system is operational, i.e., cause to be turn on – i.e., An initialization period. During initialization, i.e., during a "spin-up", or "start-up" condition the optical pu is neither reading or writing information onto/from the disc.

With respect to claim 2 – see the above analysis.

With respect to claim 3, this is also drawn to an apparatus lacking the optical pu device of claim 1. The remaining lines of this claim, 7-15 are written in a wherein clause, which the examiner concludes exists in the primary reference as it progresses from a stop state (first rotation speed) to a final stabilized (balanced speed) third rotation speed.

With respect to claim 13, this claim is also drawn to an apparatus similar to claim 1, lacking the optical pu element. The claim further recites in lines 7 – 15 wherein clause, which the examiner interprets as a conditional desired result. This desired result occurs during the spin-up, start-up operation of Ikuta et al, i.e., the three rotational speeds are present (balance state exists – balls are appropriately separated, a midlevel speed – during which the speed is lower than the balanced state, and the third rotation – stop state.

With respect to claims 27 and 28, these are method claims analogous to apparatus claims 3 and 13 and are met when the system to Ikuta et al operates.

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Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ikuta et al further considered with Fennema et al.

With respect to claim 4, this is an apparatus claim, which lacks the optical pu of claim 1, the remaining elements so recited are present in Ikuta et al.

Claim 4 continues to recite in lines 7-9 and as further defined by dependent claim 5, the ability to adjust the laser power/or focus system in the condition recited. This condition is the balanced state, i.e., after start-up, spin-up. Although Ikuta et al lacks any specific mentioning of such, Fennema et al discloses/teaches in this environment the ability of adjusting system parameters after a stable/start-up state is achieved.

It would have been obvious to modify the base system of Ikuta et al with the above teaching from Fennema et al, motivation is to permit recording and reproducing after stabilization/stable state exists.

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Allowable Subject Matter

9. Claims 6,7,9-12,17,23,25 are allowed. None of the cited prior art teaches or discloses the additional "impact detection section" of independent claims 6,7; the behavior detection section of independent claim 17.

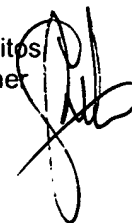
10. Claims 8,24,26,29-31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aristotelis M Psitos whose telephone number is (703) 308-1598. The examiner can normally be reached on M-Thursday 8 - 4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William R. Korzuch can be reached on (703) 305-6137. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Aristotelis M Psitos
Primary Examiner
Art Unit 2653



AMP